

Message Text

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ACTION EB-07

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FM AMEMBASSY BELGRADE

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AMCONSUL ZAGREB

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E.O. 11652: N/A

TAGS: BGEN, EIND, YO

SUBJECT: YUGOSLAV LAW ON MARKETING OF DRUGS--TRADEMARK PROBLEMS

REF: BELGRADE 3399

SUMMARY: A SECOND U.S. DRUG PRODUCER HAS INFORMED EMBASSY THAT DISAGREEMENTS OVER TRADEMARK RIGHTS ARE DELAYING THE REGISTRATION OF PHARMACEUTICAL PRODUCTS WHICH IT IS PLANNING TO MARKET IN YUGOSLAVIA. TO DATE THE EMBASSY HAS NOT SUCCEEDED IN ARRANGING A MEETING TO DISCUSS THE TRADEMARK QUESTION AT THE COMMITTEE FOR HEALTH AND SOCIAL PROTECTION. A RUMOR HAS SURFACED THAT THE COMMITTEE IS NOT RESPONDING TO INQUIRIES ON THE LAW UNTIL A SPECIAL COMMITTEE COMPOSED OF DRUG AND INDUSTRY REPRESENTATIVES HAS HAD AN OPPORTUNITY TO ONCE AGAIN REVIEW THE TRADEMARK PROVISIONS. EMBASSY FEELS THAT THE OUTCOME OF THE TRADEMARK ISSUE ON DRUGS MAY HAVE BEARING ON OVERALL GOVERNMENT POLICY OF TRADEMARKS. ACTION REQUESTED: LANDAU OF JOHNSON AND JOHNSON SHOULD BE ALERTED TO PROBLEM EMBASSY IS HAVING IN GETTING APPOINTMENT WITH HEALTH COMMITTEE AS HE MAY WISH TO POSTPONE TRIP TO BELGRADE SCHEDULED JUNE 27 TO LATER DATE. END SUMMARY.

1. EMBASSY HAS RECEIVED ANOTHER REPORT OF DRUG REGISTRATION BEING LIMITED OFFICIAL USE

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HELD UP BECAUSE OF TRADEMARK PROBLEMS. PIERRE BINGGBLI, SWISS REPRESENTATIVE OF SEARLE CO., SKOKIE, ILLINOIS, WAS RECENTLY INFORMED BY ITS YUGOSLAV PARTNER, GALENIKA (ALSO ASSOCIATED WITH BRISTOL-MYERS) THAT UNDER THE NEW DRUG LAW SEARLE IS REQUIRED TO AUTHORIZE GALENIKA TO SELL DRUGS UNDER THE LATTER'S OWN TRADEMARK IN ORDER TO QUALIFY FOR REGISTRATION. SEARLE WAS PLANNING TO INTRODUCE THREE NEW DRUGS UNDER ITS TRADEMARK THROUGH

GALENKA UNTIL IT WAS INFORMED OF THIS APPARENT REQUIREMENT.

2. GALENIKA IS NOT ALONE AMONG YUGOSLAV DRUG ENTERPRISES ADOPTING THIS INTERPRETATION OF THE DRUG LAW. A REPRESENTATIVE OF LEK, A MAJOR SLOVENIAN PRODUCER, INFORMALLY TOLD AN EMBASSY OFFICER THAT HIS ENTERPRISE SUPPOSEDLY REFLECTING OFFICIAL GUIDANCE, WAS ALSO TAKING THE POSITION THAT FOREIGN COMPANIES MUST EITHER IRREVOCABLY TRANSFER TRADEMARK RIGHTS OR PERMIT THE YUGOSLAV PRODUCER TO CREATE ITS OWN TRADEMARKS IN ORDER TO MEET THE REGISTRATION REQUIREMENTS.

3. SO FAR EMBASSY HAS STRUCK OUT IN ITS ATTEMPTS TO SET UP AN APPOINTMENT AT THE FEDERAL COMMITTEE FOR HEALTH AND SOCIAL PROTECTION TO OBTAIN A CLARIFICATION OF THE TRADEMARK PROVISIONS OF THE DRUG LAW. COMMITTEE OFFICIALS HAVE NOT RETURNED OUR CALLS NOR RESPONDED TO AN EARLIER WRITTEN REQUEST FOR AN OFFICIAL INTERPRETATION. EMBASSY HAS NOW ASKED FOREIGN AFFAIRS SECRETARIAT FOR MEETING ON THIS MATTER.

4. AN OFFICER OF THE GERMAN EMBASSY, WHICH ALSO FAILED TO OBTAIN AN APPOINTMENT AT THE HEALTH COMMITTEE, TO DISCUSS THE DRUG LAW, PASSED ON THE RUMOR THAT THE GOVERNMENT HAS SET UP A SPECIAL COMMITTEE WITH REPRESENTATIVES FROM THE YUGOSLAV DRUG INDUSTRY TO REVIEW THE TRADEMARK PROVISIONS. ACCORDINGLY HE FELT THAT THE HEALTH COMMITTEE WILL NOT RESPOND TO ANY INQUIRIES UNTIL THE COMMITTEE HAS SUBMITTED ITS RECOMMENDATIONS. EMBASSY HAS NOT BEEN ABLE TO SUBSTANTIATE EXISTENCE OF COMMITTEE FROM OTHER SOURCES.

5. OUTCOME OF TRADEMARK ISSUE ON DRUGS MAY HAVE BEARING ON OVERALL LIMITED OFFICIAL USE

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GOVERNMENT POLICY ON TRADEMARKS. IN INFORMAL TALKS GOVERNMENT ECONOMIC OFFICIALS HAVE FREQUENTLY EXPRESSED THEIR DISSATISFACTION WITH INSISTENCE OF WESTERN FIRMS ON TYING THE TRANSFER OF KNOW-HOW TO FOREIGN TRADEMARKS AND THEN PLACING LIMITS ON USE OF THE TRADEMARKS. AN ADVANCED DRAFT OF THE NEW LAW ON LONG-TERM COOPERATION (WHICH HAS NOT BEEN PUBLICIZED) INDICATES THAT THE YUGOSLAVS ARE SERIOUSLY CONSIDERING SEVERE MEASURES TO FORCE A LIBERALIZATION OF TRADEMARK AGREEMENTS. IN THIS DRAFT THERE ARE PROVISIONS WHICH WOULD REQUIRE FOREIGN FIRMS IN CERTAIN CASES TO TRANSFER ALL TRADEMARK RIGHTS TO THE YUGOSLAV ENTERPRISE OVER A TEN-YEAR PERIOD AND, IN OTHERS, TO DISPLAY DOMESTIC AND FOREIGN TRADEMARKS SIDE BY SIDE ON THE PRODUCT. ALTHOUGH WE HAVE LEARNED THESE PROVISIONS ARE CONTROVERSIAL EVEN AMONG YUGOSLAVS AND MAY NEVER BE ENACTED, NONETHELESS THEY ARE AN IMPORTANT INDICATOR OF YUGOSLAV FEELING ON THIS ISSUE.

6. ACTION REQUESTED: LANDAU OF JOHNSON AND JOHNSON SHOULD BE ALERTED TO THE PROBLEM WE ARE HAVING IN ARRANGING APPOINTMENTS. HE MAY WISH TO CONSIDER POSTPONING HIS TRIP TO BELGRADE, NOW

SET FOR JUNE 27, UNTIL EMBASSY HAS SUCCEEDED IN BROACHING
TRADEMARK QUESTIONS WITH APPROPRIATE OFFICIALS AND GETTING BETTER
READING OF GOVERNMENT INTENTIONS.
YORK

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